

**TESTIMONY OF CHARLES J. McMINN**  
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**BEFORE THE SENATE COMMERCE, SCIENCE AND TRANSPORTATION**  
**SUBCOMMITTEE ON COMMUNICATIONS**  
**April 22, 1998**

**1. Introduction**

Good morning Mr. Chairman and Senators and thank you for the opportunity to appear before you to discuss section 706, the recent section 706 petitions filed at the FCC, and most importantly how these matters relate to the development of robust and sustainable competition in the area of advanced data services. My name is Charles McMinn and I am the founder, President and Chief Executive Officer of Covad Communications Company (Covad), a competitive local exchange carrier (CLEC) that offers high speed digital telecommunications services over existing local telephone lines in competition with the existing incumbent local exchange carrier (ILEC). I am here today on behalf of the Association of Local Telecommunications Services, better known as ALTS. ALTS represents facilities-based competitors in the local telecommunications market offering voice, data, internet and other advanced technological services. In particular, I will discuss the realities of competition today

as Covad and other CLECs deploy DSL technology in local markets nationwide and what actions must occur in order to bring true competition to the advanced data services market. But first let me tell you about my company.

Covad is a Silicon Valley-based CLEC that is focused on deploying packet-switched, high-bandwidth digital subscriber line (or "DSL") based telecommunications services in residential and business neighborhoods. In particular, Covad offers high speed access solutions that connect corporations to the home of employees who telecommute and businesses to their internet service provider. Our services provide communications speeds up to 1.5 million bits per second, fifty times faster than a normal analog modem. Covad is one of a new generation of CLECs that is intent upon the deployment of DSL-based telecommunications services over our own facilities or in combination with ILEC unbundled loops to residential areas and business districts.

Covad exists today because of the Telecommunications Act of 1996. Founded only nineteen months ago, Covad today employs almost 100 people, has raised over \$150 million in capital, and has commercially deployed the nation's largest DSL network, which passes over a million homes and businesses in the San Francisco Bay Area. Last month, Covad announced that it will expand its network in 1998 to five additional metropolitan regions, including Boston, Los Angeles, New York, Seattle and the

Washington, DC area. Since our business plan focuses upon providing service to remote "telecommuters" and internet service providers, Covad's network extends to residential areas. As a result, our entry is consistent with Congress's goal that advanced telecommunications services become available "to all Americans."

But now it is time for the ILECs to comply with the Act, the antitrust laws and the commitments they have made to companies such as Covad in interconnection agreements. If the ILECs fully comply with the letter and the spirit of the law and cease in engaging in practices that artificially restrict the scope of our entry into residential neighborhoods, competitors such as Covad and other members of ALTS will bring these advanced services to all Americans, as envisioned by section 706.

Unlike almost all ILECs -- whose focus in this market appears to be limited to high end business customers, trials and calls for "regulatory relief" -- Covad has already deployed DSL services extensively in a commercial setting in California. Unless unreasonably hindered by ILECs, Covad will be able to offer its innovative 'always on' DSL services to over twenty percent of the homes and businesses in the United States by the end of 1999. And we will not stop there. Covad will be the first facilities-based carrier to enter more than half of the

residential neighborhoods that we have targeted.

## **II. The Nature of Competition for Advanced Telecommunications Services**

Covad supports the Congressional policy behind Section 706 of the 1996 Act. Indeed, Covad's sole goal is to make that policy a reality by deploying advanced telecommunications services rapidly throughout the United States. The best way to achieve this laudable goal is by ensuring that local competition can develop and thrive. Only the conditions of true facilities-based competition will lead to the rapid and continuous construction of state of the art, advanced telecommunications networks. It is clear from the explosive growth in the computer industry that "open platforms" - through which innovative competitors can develop new and rival hardware or software applications - best serve this economy's insatiable demand for computer processing power and information technology. Entrepreneurial companies like Covad seek to bring that same innovation and drive to the telecommunications industry.

Traditional, monopoly regulation can never replicate the conditions of a competitive market. Instead, regulation must focus upon ensuring that incumbent networks are open to competitive provision of services and removing the barriers that

stand in the way of competitive rivalry in this industry. The 1996 Act was designed to promote competition, and now we must ensure that ILECs comply with this Congressional objective.

Covad views section 706 as a backstop to the major local competition sections of the 1996 Act. That is, if the other provisions of the Act, such as sections 251 and 252, once fully implemented, are somehow are not bringing about the congressional goal, then section 706 would come into play to see why we are falling short. That is not the case today. Rather, ILEC actions to preclude competition is what is holding back the explosion of broadband services to all Americans.

Therefore, Covad strongly believes that ILECs should live up to the terms and conditions in the 1996 Act and current interconnection agreements. Sections 251, 252, 271 and 272 -- the bedrock competition provisions of the 1996 Act -- remain the law of the land. If ILECs live up to the law and their commitments, no regulatory deals will need to be cut to ensure that broadband services be deployed.

As I will discuss more fully below, Covad's experience regarding physical collocation practices, and the availability and provisioning of DSL-compatible unbundled loops reveals ILECs have failed to comply with and fully implement the 1996 Act, especially as the Act relates to broadband services.

Therefore, while ILECs talk about competition and broadband deployment, they have no real idea of what robust competition is about. They rely upon placid, static methods of economic analysis, which virtually ignore the impact that a competitive market will have on innovation and deployment of new services. As Avram Miller, Vice President of Business Development of Intel Corporation stated "their strategy for tomorrow is to make today last", Forbes Magazine, February 13, 1998. The ILEC section 706 petitions demonstrate that they long for the good old days of the monopoly dictating what is best for the consumer, controlling the destiny of advanced data services.

For example, ISDN technology has been around for over 20 years but widespread ILEC deployment came only in the past few years. DSL has been used by ILECs for several years to provide expensive services to businesses but ILECs have not focused upon residential, consumer DSL services until only recently. The ILECs fear of the uncertain in terms of market success and recovery of investment prevented these technologies from being deployed sooner.

Even today, ILECs approach deployment of these technologies with their monopoly mentality—a risk-free regime of guaranteed profits and return on investment. That simply is not how competitive markets work, and it is not the way to bring advanced

telecommunications to market rapidly. Moreover, policy makers need to understand they have little leverage to change this mentality - the ILECs monopoly business incentives drive them to maintain the status quo. They will not jump at regulatory demands to junk their existing networks for advanced technologies even if they were totally deregulated.

In contrast, CLECs, like Covad, are willing and able to take the risk to bring advanced networks to market. What we need is for the regulators to stand tall and make the ILECs comply with the law. American consumers deserve a real advanced telecommunications future and not the "take-it-or-leave-it" tariff mentality that has traditionally dominated ILEC service offerings.

Therefore, I urge the policy makers at the federal and state level to examine the conduct and policies of the ILECs in their dealings with CLECs like Covad who seek to provide broadband digital telecommunications services on a competitive basis. More specifically, the policy makers should: (a) require reform of ILEC physical collocation practices; (b) ensure actual, nondiscriminatory access to unbundled local loops that support xDSL services and that these loops are offered at just and reasonable rates, terms and conditions; (c) remove the archaic restrictions on the functionality of equipment that may be

collocated in ILEC central offices e.g., compact, state of the art equipment that can provide high speed data services; (d) ensure nondiscriminatory access to operations support systems; and (e) require competitive business level interconnection agreements. I believe that if ILECs faithfully and fully implement such steps, competitive providers of advanced services like Covad will emerge in all parts of the country, and advanced data services as envisioned in the Telecommunications Act of 1996 will be the reality.

Until these steps are taken, responsibility for delay in the deployment of advanced telecommunications services must be directed at the boardrooms and legal departments of the ILECs themselves, and not at the fundamental structure of the 1996 Act. I will now address each step in detail.

### **III. Steps Necessary for Competition in Advanced Broadband Services**

Covad can build high-speed DSL networks throughout the ILECs' service territory if the ILECs would fully and faithfully implement the unbundling and collocation provisions of the Act. What stands in the way of the availability of DSL services "to all Americans" is not the 1996 Act, but the fact that the 1996 Act's provisions have not been fully or faithfully implemented by the ILECs.

#### **A. ILEC Physical Collocation Practices Must be Reformed**

CLECs such as Covad must physically collocate their equipment in ILEC central offices in order to provide DSL-based telecommunications services on a fully-competitive basis. As a result, the goals of Section 706 of the 1996 Act will be served if the policy makers takes specific steps to ensure that physical collocation space for CLEC DSL equipment is readily available in all central offices at parity with the ILEC's placement of its own equipment and following a cage-less collocation model created by CLECs as they collocate in other CLECs' central offices.

The rates, terms and conditions of physical collocation are the critical elements in determining whether Covad's network is limited to high-density, urban areas or will it extend to low-density residential and even rural areas. It's been four years since the FCC's original order on collocation was released and we still have many issues that are yet to be addressed. I therefore recommend that the FCC act expeditiously on pending petitions in those dockets, some of which are almost four years old, and ensure that pro-competitive terms for physical collocation are included.

A particularly galling fact about current ILEC physical

collocation practices is that most of the time and expense involved in collocation is wholly unnecessary. ILECs generally insist that when a CLEC requests collocation, the CLEC must pay for the construction of an elaborate "cage" infrastructure—a sometimes massive construction project that takes weeks, costs hundreds of thousands of dollars, and oftentimes involves asbestos removal, air conditioning upgrades and new bathrooms for the central office. These cages are large and imposing, ceiling to ground, 10 X 10 foot enclosures that are placed under lock and key. However, the advanced, next generation equipment Covad seeks to collocate is generally no larger than a night stand. Requiring that elaborate and expensive cages surround this equipment is ludicrous, and increases the costs of CLEC entry and makes it uneconomical for CLECs to enter less densely populated residential and rural areas.

I cannot stress enough the impact that ILEC physical collocation practices have upon providers like Covad. Covad requires "blanket" coverage in residential areas—to provide telecommuting and ISP services. For instance, to provide services in the San Francisco Bay Area, Covad will eventually collocate in more than 70 central offices, a network will stretch from the beaches to the mountains. Similar levels of collocation are needed in markets such as Boston and Washington, DC, and even more collocation is needed in New York.

Widespread, competitive broadband deployment can only be realized if ILECs are required to reform their medieval, cage-based physical collocation practices in a manner that would provide CLECs with more cost-effective and rapid collocation solutions including cage-less physical collocation.

The cost of traditional, cage-based collocation, often running up to \$200,000 per office—which includes the cost of a cage and related infrastructure improvements that is inflected on the first CLEC that collocates—is generally unnecessary and wasteful and also creates an artificial scarcity of central office space. Covad has found that in as many as 15-20% of the central offices it seeks to collocate in—even and especially among residential offices in which Covad would be the first collocater—ILECs claim that no space is available for physical collocation.

These “no-space” assertions create competitive barriers because ILECs do not face the same exclusion from the central office when they place DSL equipment, cage-free, in those very same central offices. For example, although some of Covad’s collocation applications have been denied in some Bay Area offices, Pacific Bell has since begun to provide DSL services from those offices—indicating that there is indeed space for DSL central office equipment, just not room for a cage.

Because our business plan involves offering “blanket” services to

entire metropolitan areas, Covad immediately felt the unnecessary burden of the ILECs' cage-based collocation practices. But nationwide demand for collocation has increased dramatically since passage of the 1996 Act, and the Eighth Circuit's decision to require CLECs to "combine" unbundled network elements can be expected to increase collocation demand even further. As a result, current ILEC physical collocation practices are unnecessarily delaying the availability of innovative services to consumers. In addition, ILEC practices are making it so that a significant percentage of American residential neighborhoods and rural areas may never see the benefits facilities-based, DSL-loop competitors.

Covad has, with varying success, explored other alternative forms of physical collocation with the ILECs, including "cage-less" physical collocation. Adoption of "cage-less" physical collocation would permit CLECs to collocate DSL equipment in the ILEC central office in the same manner that the ILEC places its own DSL equipment in the office, subject to reasonable security arrangements such as card-entry systems and video cameras. Covad believes that only cage-less physical collocation provides CLECs with true parity in collocating equipment.

Based on its experience, Covad believes that cage-less physical

collocation can be carried out by an ILEC in forty-five days and for non-recurring charges of less than \$10,000 per office. Compared to more than one hundred days and \$100,000 or more for cage-based collocation, it is easy to see that cage-less physical collocation will prompt collocation by Covad and other CLECs in residential neighborhoods with far smaller populations that would be too expensive to serve under cage-based physical collocation. Not only can cage-less physical collocation solve the problem of the 15-20% of neighborhoods that are currently denied further facilities-based competition, cage-less also makes it possible for a CLEC like Covad to enter new markets rapidly and immediately serve bandwidth needs in those neighborhoods.

Cage-less physical collocation is clearly feasible. Indeed, cage-less arrangements are common between CLECs today when they collocate equipment on each other's premises. Divestiture-era cage-less arrangements between ILECs and AT&T remain in place in several central offices today.

In my opinion, the cost and time difference between medieval, cage-based collocation and modern, cage-less collocation is the difference between facilities based entry in downtown Washington, DC and Bozeman, Montana. Reducing the effective cost factor of collocation ten times would facilitate physical collocation in smaller, residential and rural areas.

**B. DSL-compatible Local Loops Must Actually be Available on Rates, Terms and Conditions that are Just, Reasonable and Nondiscriminatory**

Covad's business relies on obtaining from the ILEC unbundled loops conditioned to support DSL and other digital services. Unfortunately, the actual availability of DSL-compatible loops on an unbundled basis from ILECs is uncertain at best. Although unbundled DSL compatible loops has been the 'law of the land' since August 1996 when first ordered by the FCC and later upheld by the 8<sup>th</sup> Circuit court, blatant non-compliance with this rule is rife throughout the country. And even when these loops are available, rates, terms and conditions vary. Therefore we request that the FCC investigate ILEC full compliance with the Order expeditiously.

Because of our business focus on DSL, Covad has discovered (to its dismay) that ILECs are routinely not making loops certified to support DSL services available to CLECs. Indeed, Bell Atlantic does not provide any CLEC with access to loops certified to support ADSL and HDSL services in any of its service territories. As a businessman, it is startling to find out that an American company such as Bell Atlantic is not only permitted to get away with this non-compliance and that they have no second thoughts about asking for even more.

Covad has made it a priority to break up this DSL-loop logjam and Bell Atlantic has fought Covad at every step. After months of laborious negotiations, Covad and Bell Atlantic last December signed one of the few agreements that eventually will allow Covad to obtain access to DSL-compatible loops in New York. However, when Covad sought to expand that process to other Bell Atlantic states, Bell Atlantic resisted. As a result, Covad was required to file for arbitration on this very same issue in Massachusetts only two months after the New York Agreement closed. This example is only one of many that demonstrate the trench warfare that ILECs engage in with carriers seeking to deploy broadband services.

To illustrate the breadth and gall of Bell Atlantic's efforts to deny CLECs access to DSL-compatible loops, let me read from Interconnection Agreements between Bell Atlantic and what I believe to be all facilities-based CLECs in Massachusetts:

The parties acknowledge that ADSL is not currently deployed for use in the BA/Nynex network. BA/Nynex is conducting a technical trial that is due to be completed by the end of the first quarter of 1997..... BA/Nynex will share its interim findings and conclusion and consult CLEC regarding issues related to deploying ADSL....

The comprehensiveness of Bell Atlantic's efforts to thwart DSL competition is impressive—by religiously inserting these clauses into every Agreement, Bell Atlantic has denied the citizens of

Massachusetts the dynamics of a fully-competitive market for advanced, high-speed DSL services. Similar exclusionary clauses permeate Bell Atlantic's negotiated and arbitrated Interconnection Agreements in other states, including New York, Virginia and Maryland.

Needless to say, it would be utterly ridiculous to ever grant Bell Atlantic regulatory relief with respect to its DSL services before Bell Atlantic actually provides CLECs with unbundled loops certified to support DSL services as required by FCC Rules. The policy makers would be doing nothing but creating another slow moving, consumer hostile monopoly for broadband data services.

In addition, even where DSL-loops are available, prices for these loops vary widely—not by a few dollars a month, but by factors of ten. In Illinois, the monthly prices for Ameritech ADSL and HDSL loops are identical to the monthly prices for analog loops, ranges from \$3.72 to \$11.53. Loop rates in Texas are vastly higher, starting at \$34.91 in urban areas. As a result, a DSL loop is nearly ten times more expensive in downtown Houston than in downtown Chicago. Not even the differences in weather, geology, the cost of labor, and other cost factors can explain the radical price differences shown in this chart.

State	2 wire Analog Loop	2 Wire Digital xDSL loop
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	(High Density Zone)	(High Density Zone)
IL	\$ 3.72	\$ 3.72
MA	\$ 7.54	\$19.87
TX.	\$12.14	\$34.91

Covad firmly believes that the cost of providing loops certified to support DSL services is substantially similar to the cost of providing loops certified to support analog, voice-grade services. Indeed, ILECs told the Commission prior to passage of the Act that the cost of loops certified to support BRI-ISDN services is fundamentally the same as the cost of loops certified to support analog services. Indeed the copper line used to support DSL is in most cases identical to the copper line used for analog service and that copper line has been paid for many times over by the businesses and residential ratepayers in every state.

I urge the policy makers at the federal and state level to investigate extensively the availability and prices of DSL-compatible loops. Along with physical collocation, DSL loop issues are, I believe, the primary stumbling blocks that keep CLECs like Covad on the sideline in several markets. The competitive provision of broadband, DSL services will be hampered until these ILEC practices are reformed.

#### **C. Archaic Restrictions Placed Upon Collocated Equipment**

Archaic restrictions on collocated equipment forces CLECs into time-consuming delay and litigation and also forbid more efficient forms of network design. A clear, national principle is needed to prevent these delays and inefficiencies. In particular, the FCC's current rules have permitted ILECs to drag CLECs into state-by-state, case-by-case determinations as to whether a particular piece of equipment may be collocated in an ILEC central office. As a result, ILECs are able to add to the collocation process another time-consuming step that causes CLECs even further delay in constructing their network. These archaic rules predate the Act, and were created at a time when the FCC wanted to introduce competition to only limited segments of the market. The Telecommunications Act has dramatically expanded this definition of competition into all local markets, including those markets sheltered by the FCC in its original rules. Therefore the FCC should modify the collocation rules to reflect the requirements of the Act.

The wholesale restriction on collocation of all switching equipment should be re-visited in the Section 706 context. For example, it should not apply to packet-switching equipment, such state of the art routers and ATM gear from companies such as Cisco, Ascend and Bay Networks . Deployment of packet-switching equipment in ILEC central offices—without concern that the ILEC

will drag it through case-by-case determinations of the “ functionality” of such equipment—would permit Covad and other CLECs building all-digital, data-oriented networks to freely utilize customized routing and other sophisticated functions that can make their networks more redundant, reliable and efficient.

**D. Nondiscriminatory Access to Operations Support Systems (OSSs)**

Inadequate access in operations support systems (OSSs) is yet another means to by which competition is stifled. In many cases, our interaction with the ILEC is in the form of a manual process but the same activities by the ILEC itself are completely automated. For example, when a CLEC places an order today for unbundled loops or even just a pre-order query of a customer record and potential due date, in many cases the order may have to be faxed to the ILEC and it can take days to get a return faxed response to the query. In other cases we enter our orders electronically in a crude 1970's era terminal screen, only to have the ILEC print them out and reenter them into their internal terminals, a process that leads to significant transcription errors. ILEC access to the same information is immediate and totally automated. This creates an extreme anticompetitive difference in the ability of new entrants seeking to provide services to customers. What we need to overcome this barrier are

national standards to promote economic and efficient handling of the inter-company traffic and transactions needed to transfer customers between local carriers. I would like to commend the FCC for initiating a rulemaking on just this issue on Friday April 17 but from my first reports, it did not go far enough. I therefore encourage the FCC to ensure that these OSS measurements combined with standards actively support robust and sustainable competition not just another data collection effort.

#### **E. Business-Like Interconnection Agreements**

Lastly, interconnection agreements between CLECs and ILECs oftentimes lack rigorous enforcement mechanisms that incent contract compliance and provide quick and effective dispute resolution. For example, there are oftentimes no effective penalties assessed on the ILEC if it misses the date for delivery of CLEC facilities or unbundled loops. However, I would bet that if an ILEC misses a delivery to one of its large retail business customers, there are significant commercial penalties embedded into these retail business contracts. The solution is to require the ILEC to include explicit contract language for compliance penalties and expedited dispute/resolution processes.

When Covad enters a market, we become a major customer of the ILEC. Indeed, in many instances the ILEC might not have seen

revenue for that customer but for Covad's entry—such as when we hook up a person who has just started to telecommute or when we initiate service to a small business or library to the Internet. In a normal business environment, suppliers treat major customers well. Unfortunately, ILECs do not view CLECs in that way.

#### **IV. The State of Local Competition Two Years After the Telecommunications Act**

While the above steps are, I believe, necessary to promote robust competition for broadband services, it would be remiss to discount the impact that the 1996 Act has already had upon the market. There is no doubt that the Telecommunications Act has facilitated the growth of local competition. Indeed, Covad would not exist without the collocation and unbundling provisions of the Act. The Act tore down or reduced many of the legal barriers that stood in the way. The Telecom Act can be viewed as the roadmap to competition for both voice as well as advanced data services. Already under the Telecom Act, customer needs are beginning to reshape the telecommunications industry and forge new models for serving the local marketplace.

The first evidence of this phenomenon is the creation -- by CLECs such as Covad - of the nation's first local packet-switched digital telecommunications networks -- in direct response to increased customer demand for broadband capabilities and advanced solutions.

Many ALTS members operate state-of-the-art networks with asynchronous transfer mode (ATM) backbones that support both ATM and frame relay services. In fact, CLECs today are among the nation's leading providers of frame relay.

To truly appreciate our progress, consider the great challenges we face. This has rightly been called a great business but not an easy one. Getting started effectively means going head-to-head with a financially potent monopoly. All facilities-based CLECs, such as Covad, must obtain interconnection agreements with the monopoly, a process which can take over nine months. From an operational standpoint, the CLEC and ILEC must work together on a day-to-day basis regarding collocation and access to unbundled network elements.

Moreover, facilities-based competition is highly capital intensive at the outset. Once the facilities are deployed, profitability hinges on achieving significant, volume dependent economies of scale which can only occur with a significant base of customers. Customers expect and demand high levels of performance and reliability in order to leave the comfort of the ILEC. And finally, competitors must contend with a perplexing array of multi-tiered regulation at the local, state and federal levels.

Yet, in a remarkably short time, the CLEC industry has scored impressive gains in bringing services and choice to the local marketplace. Today, there are over 100 competitive local entrants, including both facilities-based and resale providers. This number continues to grow and new Initial Public Offerings continue to be announced. Wall Street has viewed this emerging sector of the market as the future growth of telecommunications. Industry revenue reached \$2.7B last year. Although relative newcomers, the CLECs closed 1997 with 1.4M access lines and analysts projected that this growth will double in 1998 to over 3M lines. Finally, as the leading indicator of Wall Street's confidence, the CLECs have raised over \$14B in capital since the Telecom Act was passed. By contrast, for the four years prior to the Act, ALTS members only raised \$2B. In other words, thanks in part to the procompetitive policies of the Telecom Act, CLECs were able to raise seven times the money in half the time.

Nevertheless, as the ILEC market statistics that follow demonstrate, the CLECs still have a very long way to go. Today, while our enterprise value for this emerging market is estimated at \$26B, the ILEC enterprise value is \$400B. Compared to our \$2.7B in 1997 revenue, the ILECs had \$101B in 1997 revenue. While our access lines increased to 1.4M in 1997 and continue to grow dramatically, the ILECs had a total of 161M access lines, an

increase of over 6M from 1996, and they are projected to increase in 1998 to over 168M lines.

These statistics prove that there is pent up demand for new feature functionality and services in the local telecommunications sector for all providers, both CLECs and ILECs, and, further prove that ILEC growth was not adversely effected by CLEC entry in the local market, in fact, quarter over quarter, ILECs continue to report record earnings growth. We believe it will be possible to further expedite our growth and thus speed the day when all Americans have a choice in local telecommunications services. Specific actions—such as cage-less physical collocation—would have an immediate impact upon the cost of entry into the market for residential broadband services. As a result, it is critical that all participants, including CLECs, ILECs, and policy makers at the federal and state level, understand and focus on the impediments to progress that I outlined above.

Competitive markets do not simply appear. To move from a market with only one player to a market of many players, entry must occur. The entry process—and the ensuing transition from the monopoly environment-- is a process that does not occur overnight, or even in a few months.

Overseeing the transition requires breaking down the current

barriers and avoiding giving the ILECs even more market power than they already hold, i.e., by eliminating pro-competitive regulatory requirements prior to robust and sustainable local competition for data services and enabling the ILECs to create yet another monopoly in the area of advanced data services.

## **V. Closing**

As Chairman Kennard said recently:

Government should not be forced to choose between less regulation or more bandwidth. The best way to ensure more bandwidth is to encourage local competition and some regulations that the Bell companies seek to overturn are designed to encourage that competition.... Communications Daily of April 17, 1998.

As a result, I urge the policy makers at the state and federal level to stay the course of local competition with renewed vigor. The competitive industry has come a long way in two years. Our success to date is a tribute to Congress, the regulators as well as to the entrepreneurs who started the business and took the risks.

But we still have a long way to go. Competition will be the only way to ensure that the advanced data networks American consumers deserve are actually deployed. Pre-mature long-distance entry or approval of the 706 petitions would reverse the tide of local competition that is just beginning to evolve.

Section 706 is a safety valve and was included in the Act to ensure advancement of data networks. If someone can conclusively prove that advanced data networks are not, can not and will not be built and that regulation is the reason then section 706 is the answer to ensure that advanced networks are deployed. I can tell you today that is NOT a fact—indeed, Covad's existence is testament to the fact that advanced, packet-switched data communications networks are being built today because the demand exists today. Deployment of similar networks would be more widespread to residential neighborhoods and rural areas but the ILECs themselves are withholding the tools necessary for that deployment.

Along with 706, the policy makers can solve these problems by continuing to utilize the section 271 long distance entry carrot over the ILECs. In fact, section 271 should be viewed as the Competition Assurance Provision of the Act. The policy makers have so far performed their jobs properly and in a balanced fashion in regard to overseeing 271 applications. If we are to see these barriers to entry fall, we need to stay the 271 course and not allow the ILECs to displace the birth of competition in advanced data networks by exclusionary tactics once again in the local competition market.

Implementation of the solutions to the actions described above would, Covad believes, help bring the competitive provision of broadband digital telecommunications services to residential markets throughout the country. Responsibility for the seemingly-stalled deployment of advanced telecommunications services must be placed squarely on the ILECs alone. Delay can be attributed to the absence of a fully-competitive market—created by certain actions of the ILECs. The goal of the 1996 Act is to promote the deployment of these services to all Americans in a competitive environment.

Covad believes that American consumers deserve no less than the most robustly competitive and rivalrous “market for telecommunications bandwidth” in the world. Blatant barriers to entry must not be allowed to stand. Failing to ensure a competitive environment would condemn the deployment of crucial next-generation digital communications services to the unfettered whims of the ILECs—precisely the opposite of what Congress intended Section Sections 251, 271 and 706 to accomplish.

I thank you for this time today and welcome questions.